



The Commonwealth of Massachusetts

Department of Revenue

Everett Saltonstall Building,

100 Cambridge Street, Boston 02204

JOYCE HAMPER
COMMISSIONER

February 10, 1982

You request a ruling concerning the application of the sales tax on meals to meals served at the ("Fraternity"). Members of the Fraternity pay an equal share of the annual budget of the Fraternity. The budget includes the cost of food and an amount representing the sales tax on meals.

Each term a member is chosen to be a steward; he is responsible for planning meals, scheduling cooks and ordering food. The steward receives no compensation for his services. Food products are purchased from large distributors. Food preparation and cleanup are performed by certain members.

Planned, scheduled meals are breakfast Monday-Saturday, dinner Monday-Friday, and lunch on Saturday. These meals are eaten by members in a communal dining room. Members prepare their own lunches (except on Saturdays) and are allowed to take snacks purchased by the Fraternity at any time. A member may cook his own meals if he so chooses. Members are not charged for meals served to their guests.

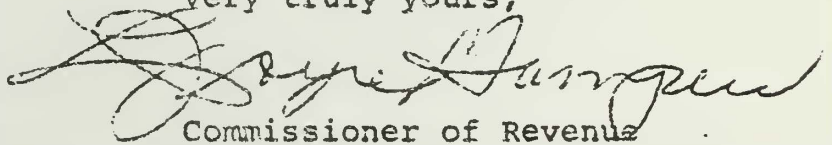
General Laws Chapter 64H, Section 6(h) exempts from sales taxation food products for human consumption other than meals provided by a restaurant. Meals are defined as any food or beverage, or both, prepared for human consumption and provided by a restaurant. A "restaurant" is any eating establishment where food, food products, or beverages are provided and for which a charge is made.

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Chapter 62C, Section 37 allows persons aggrieved by the assessment of a tax to file an Application for Abatement (Form CA-8). Section 37 states that no refund of money shall be made to a sales tax vendor until he establishes to the satisfaction of the Commissioner of Revenue that he has repaid to the purchaser the amount for which the application for refund is made.

Based on the foregoing it is ruled that the Fraternity, which charges its members for the actual cost of the food it purchases and whose members prepare the food themselves, is not a restaurant within the meaning of the sales tax law. Therefore food served at the Fraternity is not subject to taxation.

Very truly yours,



Wayne H. Dungan
Commissioner of Revenue

LJH:RSF:mf

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